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## ELECTION COMMISSION, INDIA

### NOTIFICATIONS

*New Delhi, the 9th August 1952*

**No. UP-P/52(71).**—It is hereby notified for general information that the disqualifications under clause (c) of section 7 and section 143 of the Representation of the People Act, 1951 (XLIII of 1951), incurred by the person whose name and address are given below, as notified under notification No. UP-P/52(12) dated the 19th May, 1952, have been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section 144 of the said Act respectively:—

Shrimati Chando Devi of 23/79, Fatkapur, Kanpur.

**No. MD-P/52(98).**—It is hereby notified for general information that the disqualifications under clause (c) of section 7 and section 143 of the Representation of the People Act, 1951 (XLIII of 1951), incurred by the person whose name and address are given below, as notified under notification No. MD-P/52(21) dated the 17th April, 1952, have been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section 144 of the said Act respectively:—

Shri A. Arjunan, S/o Shri Andi, Therkutheru P.O., Melur Taluk, Madurai District.

P. N. SHINGHAL, Secy.

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## ELECTION TRIBUNAL, ASSAM

### NOTIFICATION

*Shillong, the 6th August 1952*

In pursuance of the provisions of sub-section (I) of section 90 of the Representation of the People Act, 1951 (XLIII of 1951), the following election petition presented under section 81 thereof is published for information.

### ELECTION PETITION No. 45 of 1952

BEFORE THE ELECTION COMMISSION, NEW DELHI

In the matter of

A Petition under section 81 read with section 80 of the Representation of the People Act, 1951 (Act XLII of 1951), calling in question an Election.

And,

In the matter of

Mani Kanta Das, son of Late Dharani Kanta Das of Goalpara Town, P.O. Goalpara, District Goalpara, Assam.—Petitioner.

( 1898 )

*Versus*

1. Jonab Amjad Ali, P.O. Goalpara, Goalpara Town, District Goalpara, Assam.
2. Rani Manjula Devi, P.O. Bidyapur, District Goalpara, Assam.
3. Sarat Chandra Brahma Dutta, Village Datma Bazar, P.O. Datma, District Goalpara, Assam.
4. Satish Chandra Basumatari, Village Deorgaon (Deor), P.O. Sarfanguri, P. S. Kokrajhar, District Goalpara, Assam.
5. Sitanath Brahma Choudhury, P.O. Bongalgaon, District Goalpara, Assam.
6. Surendra Mohan Sen Gupta, Goalpara Town, P.O. Goalpara, Assam.—  
*Respondents.*

And,

In the matter of

Rejection of Nomination Paper of the above-named petitioner for the Election to the House of People from "Goalpara-Garo-Hills Constituency", Assam by Shree K. C. Barua, the Returning Officer of the said Constituency under section 7(d) of the Representation of the People Act, 1951, by his order dated 1st December, 1951.

And,

In the matter of

Acceptance of Nomination Papers of Respondents Nos. 1, 3, 4 and 6 of the said Constituency.

To

The Election Commission,

New Delhi.

The humble petition of the above-named petitioner most respectfully sheweth :—

1. That your humble petitioner is a resident of Goalpara Town, P.O. Goalpara, District Goalpara, Assam and was an elector in the "Goalpara-Garo Hills Constituency", Assam and was a candidate at the above election.

2. That under Notification No. S.R.O. 1781, dated New Delhi the 17th of November, 1951, the Central Government appointed with respect to the Elections to be held in the Parliamentary Constituencies in the State of Assam :—

(a) the 28th November, 1951, as the last date for making Nominations,

(b) the 30th November, 1951, as the date for scrutiny of Nomination, and.

(c) the 3rd December, 1951, as the last date for the withdrawal of candidatures.

3. And that the "Goalpara-Garo Hills Constituency", Assam, having been called upon to elect a member to the House of People, Shree K. C. Barua, the Returning Officer of the said Constituency, by Public Notification invited Nomination Papers from intending candidates to be presented before him between 11 A.M. and 3 P.M. on or before the 28th November, 1951.

4. That in pursuance of the above Notification, your petitioner, as one of the candidates, filed his Nomination Paper duly accompanied by a declaration in writing as required by Law on the 29th November, 1951, for election to the House of People from the "Goalpara-Garo Hills Constituency", Assam. And that Respondents Nos. 1 to 6 also filed Nomination Papers for the said constituency. But the Nomination Papers of Respondents 1, 3, 4 and 6 were not accompanied by such declaration in writing of appointment of election Agent as is contemplated by section 30(3) and section 40 of the Representation of the People Act, 1951, and as such were invalid and liable to be rejected.

5. That although under section 30(b) of the Representation of the People Act, 1951, the date for the scrutiny of Nominations was fixed on the 30th November, 1951, the Nomination Papers of the candidates were taken up for scrutiny on the 1st of December 1951, instead, and the Returning Officer accepted the Nominations of Respondents 1 to 6 in spite of objection as to Respondents 1, 3, 4 and 6, but on objection by Respondent No. 1, rejected the Nominations of your petitioner disqualifying him under section 7(d) of the Representation of the People Act, 1951, Respondent No. 1, Jonab Amjad Ali, the Socialist Party candidate, took objection alleging that your petitioner being a 'partner' of the "Das Transport Syndicate" Goalpara, which

had arrangement with the Postal Department to carry mail and also other obligations to Government to perform services was disqualified under section 7(d) of the Representation of the People Act, 1951, to be nominated as a candidate for election from the said constituency. And, thereupon, your petitioner produced before the Returning Officer a Registered deed of assignment of your petitioner's share in the said business on 20th November, 1951, in favour of the remaining partners of the said firm and it was also urged on behalf of the petitioner that he had no share or interest in the said business on and from 20th of November, 1951, nor had any share or interest in the alleged contract with the Postal Department, and that your petitioner had served a registered Notice upon the Registrar of Firms, Shillong, Assam.

6. And upon hearing the parties, Shree K. C. Barua, Returning Officer of the said constituency held that your petitioner was disqualified under section 7(d) of the Representation of the People Act, 1951, to be nominated as a candidate to the House of People from the said constituency and as such rejected your petitioner's Nomination Paper. (A certified copy of the Returning Officer's order is submitted herewith marked—Annexure "A").

7. That objection on similar ground was taken as to the nomination of Respondent No. 5 but the objection was over-ruled and his nomination was accepted on the ground that, although he was before a member of the Bongaigaon Bus Association, he had surrendered his permit on 23rd November, 1951, i.e., before the date of the nomination.

8. That poll was taken on the 19th January, 1952, and Respondents Nos. 1 and 5 were declared to be duly elected for the general and the Reserved seat respectively and the declaration of the result was duly published in the India Gazette on the 14th February, 1952, under section 67 of the Representation of the People Act, 1951.

9. That your humble petitioner being aggrieved by the said improper rejection of his nomination by Shree K. C. Barua, Returning Officer of the said constituency, begs to prefer this petition calling in question the said election on the following grounds:—

- (a) That the rejection of the petitioner's nomination was improper and illegal.
  - (b) That the Returning Officer erred in Law in holding your petitioner's nomination paper invalid under section 7(d) of the Representation of the People Act, 1951, and rejecting the same as such.
  - (c) That the findings of the Returning Officer do not bring the case within the ambit of section 7(d) of the Representation of the People Act, 1951.
  - (d) That the facts and circumstances of the case do not attract the provisions of section 7(d) of the Representation of the People Act, 1951.
  - (e) That the Returning Officer's interpretation of section 32 of the Indian Partnership Act is wrong.
  - (f) That the Returning Officer should have held that on and from the 20th of November, 1951, your petitioner ceased to have any share or interest in the said firm.
  - (g) That the Returning Officer over-looked that the issue of Public Notice is not a condition precedent for a valid and effective retirement of a partner from a firm.
  - (h) That the Returning Officer has not appreciated the effect of the Deed of Assignment followed by service of Notice to the Registrar of Firms and his acceptance of the same.
10. That the acceptance of the nomination of Respondents 1, 3, 4 and 6 was improper and illegal and has materially affected the result of the election.
11. That the Returning Officer acted contrary to Law in holding the scrutiny of nomination papers on a date other than the date fixed for the said purpose under section 36, Sub-Section (5) read with section 30 of the Representation of the People Act, 1951, and the result of the election has been materially affected therefor.
12. That by reason of improper and illegal rejection of your petitioner's nomination the result of the election has been materially affected, inasmuch as, the entire electorate has been deprived of its right to vote for a candidate who is duly qualified to be chosen as a member of the House of People and your petitioner has been deprived of his right to stand as a candidate.
13. That had your petitioner been allowed to contest the Election he would have secured a majority of the votes.

14. That the original Treasury Challan of Kamrup Treasury, Gauhati, dated 25th February, 1952 for Rs. 1,000 (Rupees one thousand only) showing the security deposit required by law for this Election Petition is enclosed herewith—Annexure "B".

15. That your petitioner, in the circumstances, claim that the election is wholly void and prays that the Election Commission be pleased to appoint an Election Tribunal for the trial of the petition and the said Tribunal may be pleased to declare the election to be void and to grant such other relief as the Tribunal may deem fit and proper.

#### VERIFICATION

I, Sri Mani Kanta Das, of Goalpara Town, P.O. Goalpara, District Goalpara, Assam, the petitioner named above, do hereby declare that the statements of paragraphs 1, 1st sentence of 4, 5, 6, 7 and 14 are true to my knowledge and those made in paragraphs 2, 3, 4, excepting 1st sentence and 8 are true to my informations derived from records and those made in paragraphs 9, 10, 11, 12, 13 and 15 are my humble submissions which I believe to be correct and sign this verification on this 8th day of March, 1952, at Shillong.

MANI KANTA DAS.

8th March 1952.

#### CERTIFIED COPY OF RETURNING OFFICER'S ORDER

##### ANNEXURE "A"

House of People—Mani Kanta Das—objection from Socialist Party—The candidate is a partner of "Das Transport Syndicate", Goalpara, which has contract, with Postal Department to carry mail and also other obligation to Government to perform services.

As such, he is disqualified under Section 7(d) on behalf of the candidate a registered sale deed selling the candidate's share in the business on 20th November 1951, is filed and it is said that the candidate has no interest or share in the business from 20th November, 1951 and that the candidate has already served registered notices on the Registrar.

Heard both the sides. Under Section 32 of the Indian Partnership Act, a partner can retain only after giving public notices, and according to provisions the notices must be served on the Registrar and published in the Gazette and News Papers. These procedures have not been adopted and from the copy of the Register obtained from the Registrar on 29th November, 1951, it appears that the candidate's name continues even on 29th November 1951, i.e., after filing of the Nomination Paper, as a partner of the said firm. The Registered sale deed, therefore cannot take away the candidate's interest or share in the firm which the law gives him and the sale deed is ineffective to take away his share and interest until all the provisions were not complete at the time of filing nomination the Nomination Paper is held invalid under section 7(d) of R.P. Act, 1951 and as such rejected.

Certified to be a true copy,

DHUBRI;  
2nd December 1951.

K. C. BARUA,  
Returning Officer.